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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,525	02/23/2004	Kenyon A. Hapke	1508.061	1499

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BOYLE FREDRICKSON S.C.  
840 North Plankinton Avenue  
MILWAUKEE, WI 53203

EXAMINER
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RIGGLEMAN, JASON PAUL

ART UNIT	PAPER NUMBER
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1746

NOTIFICATION DATE	DELIVERY MODE
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09/11/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@boylefred.com

**Office Action Summary**

Application No.

10/784,525

Applicant(s)

HAPKE, KENYON A.

Examiner

Jason P. Riggleman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-16, 19-21 and 23-25 is/are rejected.
- 7) ☒ Claim(s) 10-11, 17-18, 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application.                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Status of Claims***

1. Applicant's reply filed on 3/13/2007 is acknowledged. Current pending claims are 1-25. Claims 1, 11-12, 15-20, and 22 have been amended.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6, 9, 12, 15, 19-20, and 23 are rejected under 35 U.S.C. 102(b) as being unpatentable by Buser et al. (US Patent No. 5881746).
3. Buser et al. teaches a dishwashing machine which has a electric actuator-operated latch that releasably locks the door in a closed position, Fig. 3 (note arrows). The latch is operated by a timer-controlled switching assembly of the machine, so as to release the door at the end of the rinsing cycle (Column 3, Lines 31-41). The drying cycle is effected through circulation of ambient air within the washing compartment through the partially-open door. The door pivots between a close position (drying position), visually covering the washing chamber, and seal position (washing position), in addition to an open position (loading position). The compression of the gasket (seal 31) in the seal position is inherent for water-tight dishwashing machines. Alternatively, the door pivots between a vent position (partially-open drying position) and close position (washing position), in addition to an open position (loading position). The latch

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has an electric actuator mounted in the top portion of the door, Figs. 3-4. The dishwasher comprises a washing chamber having a door movable between an open position and a closed position. The latch includes an electric motor 32, that moves the door between the washing position and the drying position, having a bracket 83. The latch releasably retracts and engages behind the a lock in the door in a washing position. The engagement of the lock effectively acts as a force limiter limiting a force of closure of the door between the close position and the seal position. The door is releasably held in the drying position by a detent (spring) of the lock. The electric actuator is mounted on the washing chamber.

4. A control system controls the washing/drying operation cycles of the washing machine by operating the door motor (Column 3, Lines 54-58).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5, 14, and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buser et al. (US Patent No. 5881746) and further in view of Burnett (US Patent No. 6295004).
7. Buser et al. does not a manual latch to open the door; however, it has been held that an obvious choice in design is not patentable (*In re Kuhle* 188 USPQ 7). It would

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have been obvious to one of ordinary skill in the art at the time of the invention to modify Buser et al. to create a dishwashing machine in the user has the ability to manually control the opening of the door such as to add dishes or halt washing.

8. Buser et al., as modified above, does not teach a switch which signals that the latching portions have released the door of the dishwasher nor a door closed sensor; however, Burnett teaches a dishwasher 10 which has a front door 12 which has a switch signaling (LED emitting device) which indicates that the door 12 is beginning to open (Column 4, Lines 30). The LED 22 emitting device helps prevent injury to the shin or lower leg by the user walking into the open dishwasher (Column 2, Lines 0-43). If the door 12 is closed then there is no LED 22 signal; therefore, the dishwasher has a means to sense and indicate the door is closed. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Buser et al., as modified above, with Burnett to create a dishwashing machine which can signal that the latch portions and latch and tub portions have been released and the door is in an open state and could cause injury to the shins and lower leg of the user.

9. Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buser et al. (US Patent No. 5881746), as applied to claims 1 and 12, and further in view of Ellingson et al. (US Patent No. 4510777).

10. Buser et al. does not teach a sensor sensing the door in the close position to allow the electric actuator to move the door from the close position to the seal position; however, Ellingson et al. teaches a washing machine in which a microcontroller is programmed to allow an electric solenoid to actuate the door latch lever to lock the door

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in a seal position once it has been sensed in closed position (Column 7, lines 27-44) and claim 1 of Ellingson et al. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Buser et al. with Ellingson et al. to create a dishwashing machine which is has an automatically locking door.

**11.** Claims 4, 13, 21, and 23 are is rejected under 35 U.S.C. 103(a) as being unpatentable over Buser et al. (US Patent No. 5881746), as applied to claims 1, 12, and 20.

**12.** Buser et al. does not a manual latch to open the door; however, it has been held that an obvious choice in design is not patentable (*In re Kuhle* 188 USPQ 7). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Buser et al. to create a dishwashing machine in the user has the ability to manually control the opening of the door such as to add dishes or halt washing.

**13.** Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buser et al. (US Patent No. 5881746), as applied to claim 1.

**14.** Buser et al. does not teach the electric actuator is mounted on the door and releasably engaging the washing chamber; however, it has been held that reversal of parts would have been obvious (*In re Gazda* 104 USPQ 400). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Buser et al. to create a dishwashing machine in which the electric actuator is mounted on the door and releasably engages the washing chamber.

***Response to Arguments***

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15. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection. Also, the drawing objections and 112, second paragraph, rejections of the original claims are withdrawn in view of the amendments.

***Allowable Subject Matter***

16. Claims 10-11, 17-18, and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

17. The following is a statement of reasons for the indication of allowable subject matter: Burnett does not teach or suggest a force sensor which actuates opening of the door.

***Conclusion***

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Riggleman whose telephone number is 571-272-5935. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JPR

Jason P Riggleman  
Examiner  
Art Unit 1746



**MICHAEL BARR**  
**SUPERVISORY PATENT EXAMINER**